

FILED

AUG 19 1994

HOWARD HANSON
MARIN COUNTY CLERK
BY: E. Keswick, Deputy
RECEIVED

AUG 19 1994

HUB LAW OFFICES

1 Ford Greene
California State Bar No. 107601
2 HUB LAW OFFICES
711 Sir Francis Drake Boulevard
3 San Anselmo, California 94960-1949
Telephone: (415) 258-0360
4 Telecopier: (415) 456-5318

5 Attorney for Defendant and Cross-Complainant
GERALD ARMSTRONG
6

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF MARIN

10 CHURCH OF SCIENTOLOGY INTERNATIONAL,) No. 157 680
11 a California not-for-profit)
religious corporation,) **AMENDED**
12) **MEMORANDUM OF POINTS AND**
Plaintiff,) **AUTHORITIES IN SUPPORT OF**
13) **MOTION TO COMPEL FURTHER**
vs.) **RESPONSES TO FORM**
14) **INTERROGATORIES FROM**
GERALD ARMSTRONG; MICHAEL WALTON;) **PLAINTIFF**
15 THE GERALD ARMSTRONG CORPORATION,)
a California for-profit)
16 corporation; DOES 1 through 100,)
inclusive,)
17)
18)
Date: 9/2/94
Time: 10:00 a.m.
Dept: Referee Benz
Trial Date: 9/29/94

19 **I. INTRODUCTION**

20 Code of Civil Procedure section 2030 (1) states in part "If
21 the propounding party, on receipt of a response to
22 interrogatories, deems that (1) an answer to a particular
23 interrogatory is evasive or incomplete, or . . . (3) an objection
24 to an interrogatory is without merit or too general, that party
25 may move for an order compelling a further response." For the
26 purposes of the instant motion, Scientology, rather than directly
27 responding to the interrogatories at issue, interposed a number of
28 boilerplate objections.

COPY

1 As will be discussed below, the objections are without merit
2 as well as too general.

3 **II. STATEMENT OF FACTS**

4 Armstrong adopts by reference his statement of facts as well
5 as his Statement of Requests for Admission and Responses in
6 Dispute and the Declaration of Defendant filed in conjunction with
7 this motion as though they were fully set forth. In addition,
8 Armstrong adopts the various factual statements made in his
9 Statement of Form Interrogatories and Disputed Responses filed in
10 connection with this motion.

11 **III. SCIENTOLOGY HAS FAILED TO SUFFICIENTLY RESPOND**
12 **TO CERTAIN INTERROGATORIES REGARDING DAMAGES**

13 **A. Form Interrogatories 6.1 through 6.7**

14 Form interrogatories 6.1 through 6.7 requested plaintiff to
15 identify any physical, mental or emotional injuries relating to
16 the incident. Scientology stated that "CSI objects that this form
17 interrogatory is inapplicable to a corporation, and vague and
18 unintelligible as phrased."

19 Since members of the Scientology religion can suffer such
20 injuries, Armstrong is entitled to know whether such persons have
21 suffered harm in consequence of his alleged actions.

22 **B. Form Interrogatories 7.1 through 7.3**

23 This set of interrogatories pertains to damages to property
24 claimed by Scientology.

25 Here, too, Scientology stated that "CSI objects that this
26 form interrogatory is inapplicable to a corporation, and vague and
27 unintelligible as phrased."

28 Armstrong is entitled to know whether such damages have

1 resulted harm in consequence of his alleged actions.

2 **C. Form Interrogatory 8.1**

3 Interrogatory 8.1 asks whether Scientology has lost any
4 income or earning capacity.

5 Here, too, Scientology stated that "CSI objects that this
6 form interrogatory is inapplicable to a corporation, and vague and
7 unintelligible as phrased."

8 Armstrong is entitled to know whether such damages have
9 resulted in harm in consequence of his alleged actions.

10 **D. Form Interrogatory 9.1**

11 This interrogatory asks whether there are any other damages
12 that Scientology attributes to Armstrong's activities. Plaintiff
13 responded:

14 Objection. CSI objects that this form interrogatory is
15 inapplicable to this action, and vague and
16 unintelligible as phrased. To the extent that the
17 "INCIDENT" this interrogatory is referring to is
18 Armstrong's fraudulent conveyance of his assets to
19 others in or about 1990, CSI sustained damage in the
20 amount of those conveyances, together with any
21 appreciation or increase in value which those assets
22 have acquired since their initial conveyance.

19 Scientology is evasive in trying to limit the interrogatory to
20 Armstrong's alleged fraudulent conveyances. In is clear that
21 incident means every incident or every time CSI was damaged in
22 some way by Gerald Armstrong.

23 **E. Form Interrogatories 9.2, 10.2, 10.3**

24 Interrogatory 9.2 asks for the identification of documents
25 that support Scientology's damages. Its response that such
26 documents are the depositions of defendants, documents produced in
27 this action and unidentified Marin County public records is
28 inadequate. If there is any documentation of Scientology's

1 damages, it should be identified. If there are no such documents,
2 that should be stated.

3 Interrogatory 10.2 asks for physical, mental or emotional
4 disabilities that plaintiff had immediately before Armstrong's
5 activities commenced. Here, too, Scientology stated that "CSI
6 objects that this form interrogatory is inapplicable to a
7 corporation, and vague and unintelligible as phrased." If
8 Scientology is making no such claim on behalf of any of its
9 members, or otherwise, it should so state.

10 Interrogatory 10.3 asks for an enumeration of injuries for
11 which Scientology is now claiming damages. Here, too, Scientology
12 stated that "CSI objects that this form interrogatory is
13 inapplicable to a corporation, and vague and unintelligible as
14 phrased." If Scientology is making no such claim on behalf of any
15 of its members, or otherwise, it should so state.

16 **F. Form Interrogatories 13.1 - 13.2**

17 These interrogatories request information which pertains to
18 surveillance and reports thereof. Scientology's response is
19 evasive because it attempts to limit the meaning of the "incident"
20 to the alleged fraudulent conveyances to the exclusion of what it
21 has claimed to have been Armstrong's breaches of the settlement
22 contract.

23 **IV. SCIENTOLOGY HAS FAILED TO RESPOND TO**
24 **INTERROGATORIES LINKED TO REQUESTS FOR ADMISSIONS**

25 In conjunction with the Form Interrogatories, Armstrong
26 propounded 35 Requests for Admission. Interrogatory 17.1 requires
27 that Scientology state certain vital information for each response
28 to a Request for Admission that is not an "unqualified admission."

1 Since Scientology did not respond with any such unqualified
2 admission, it must respond to Form Interrogatory 17.1.

3 Rather than deal with all these matters here, Armstrong
4 respectfully directs the attention of the Referee to his Separate
5 Statement of Form Interrogatories and Responses in Dispute.

6 **V. MONETARY SANCTIONS SHOULD BE IMPOSED**

7 Code of Civil Procedure section 2030 (1) states that the
8 Court shall impose a monetary sanction under Code of Civil
9 procedure section 2023 against any party and attorney who opposes
10 a motion to compel a further response unless it finds that the one
11 subject to the sanction acted with substantial justification or
12 that other circumstances make its imposition unjust.

13 Based upon the foregoing discussion, it is clear that the
14 only possibly valid objection was that which was based upon
15 relevance. As to each of the relevance objections, however, they
16 were interposed with no justification inasmuch as each request and
17 interrogatory dealt directly with the issues framed by the
18 complaint and answer in this litigation.

19 **VI. CONCLUSION**

20 Based upon the foregoing arguments, defendant Gerald
21 Armstrong respectfully submits that the motion to compel further
22 responses should be granted and monetary sanctions imposed.

23 DATED: August 18, 1994

HUB LAW OFFICES

24
25
26 By: 

FORD GREENE

Attorney for Defendant and
Cross-Complainant
GERALD ARMSTRONG

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following

documents: AMENDED MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSES TO FORM INTERROGATORIES FROM PLAINTIFF

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

MICHAEL WALTON, ESQ.
P.O. Box 751
San Anselmo, CA 94979

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

(Personal Service) I caused such envelope to be delivered by hand to the offices of the addressee.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: August 18, 1994

